



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

LONDELL LASHUN ALSTON,
Plaintiff,

vs.

CITY OF ROCK HILL and RHPD JOHN
DOE #3,
Defendants.

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Civil Action No. 0:23-4300-MGL

**ORDER REJECTING THE REPORT AND RECOMMENDATION
AND REMANDING THIS CASE TO THE MAGISTRATE JUDGE**

Plaintiff Londell Lashun Alston (Alston), who is representing himself, filed this civil action, alleging Defendants City of Rock Hill (Rock Hill) and Rock Hill Police Department (RHPD) John Doe #3 (Doe #3) violated his constitutional rights under 42 U.S.C. § 1983.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court summarily dismiss this case without prejudice for failure to comply with a court order and failure to prosecute. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on July 8, 2024. In the report, the Magistrate Judge states Alston's claims should be summarily dismissed for his failure to timely file a summons or Forms USM-285 (collectively, the summons and forms) for Rock Hill and RHPD Doe #3. On August 26, 2024, the Clerk's Office docketed Alston's objections, in which he informed the Court he mailed the summons and forms within eight days of receiving them.

The Court, however, notes it has yet to receive the summons and forms. Nevertheless, in an abundance of caution, the Court will allow this case to go forward.

After a thorough review of the Report and the record in this case under the standard set forth above, the Court sustains Alston's objections, rejects the Report, and remands this matter to the Magistrate Judge for further proceedings consistent with this Order.

IT IS SO ORDERED.

Signed this 9th day of September 2024, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.